

1 **BEFORE THE POLLUTION CONTROL HEARINGS BOARD**
2 **STATE OF WASHINGTON**

3 **BLIEMEISTERS' WOODWORKS,**)

4 **Appellant,**)

5 **v.**)

6 **OLYMPIA AIR POLLUTION**)
7 **CONTROL AUTHORITY,**)

8 **Respondent.**)

PCHB NO. 93-32

**FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

9 This case came before the Pollution Control Hearings Board ("Board") on an appeal of
10 a Notice of Civil Penalty Assessment issued by Olympic Air Pollution Control Authority
11 ("OAPCA") to Bleimeisters' Woodworks in Sequim. A hearing was held at the Board's office
12 in Lacey on September 24, 1993. Present for the Board were Robert V. Jensen, Chairman,
13 and Richard C. Kelley, Member. Mr. Kelley presided. The proceedings were recorded by
14 Betty Koharski of Gene Barker and Associates, of Olympia.

15 OAPCA appeared through its attorney, Fred Gentry. Bleimeisters' was represented by
16 its president, Rick Knodel. Witnesses were sworn and heard, exhibits were introduced, and
17 arguments were presented to the Board.

18 Having considered all the evidence in the case, the Board makes the following

19 **FINDINGS OF FACT**

20 **I**

21 Bleimeisters' Woodworks has operated at 254 Kitchen-Dick Lane Road in Sequim with
22 Mr. Knodel as president since 1988. It began with 12 employees, and now has 17.

23 **II**

24 Mrs. Marie Sayers owns the house next door, approximately 208 feet from the cabinet
25 shop. The prevailing wind is from the NNW, and blows emissions from the cabinet shop

1 toward the Sayers' house. Mrs. Sayers suffers from lung disease, and is particularly
2 susceptible to noxious fumes. The family is able to make little use of the yard and deck, and
3 must often keep the kitchen window shut, because of the odor.
4

5 III

6 At approximately 5:00 p.m. on November 12, 1992, OAPCA inspector James Werner
7 visited the site and observed the cabinet shop emitting noxious fumes to the atmosphere. He
8 issued a citation to Bliemeisters' Woodworks for violation of Section 9.11(c) of OAPCA
9 Regulation 1.

10 IV

11 On January 20, 1993, OAPCA Control Officer Charles E. Peace issued a Notice of
12 Civil Penalty to Bliemeisters' in the amount of \$1,000. The amount was based on OAPCA's
13 penalty guidelines, and took into account an earlier penalty for the same type of violation.

14 V

15 On February 17, 1993, Bliemeisters' filed an appeal with the Board, seeking to
16 eliminate the penalty.

17 VI

18 Since the citation was issued, Bliemeisters' has applied to OAPCA for approval to
19 construct satisfactory fume containment equipment. OAPCA has worked with Bliemeisters' to
20 bring them into compliance with the requirements of the Washington Clean Air Act and
21 OAPCA regulations; this has not yet been achieved.

22 Based on the above, the Board makes the following

23 CONCLUSIONS OF LAW

24 I

25 The Board has jurisdiction in this matter under RCW 43.21B and WAC 371.08.

1
2 II

3 Bliemeisters' emissions substantially interfered with Mrs. Sayers' normal use and
4 enjoyment of her property.

5 III

6 Bliemeisters' emissions constitute a violation of OAPCA Regulation 1, Section 9.11(c):

7 *No person shall cause or allow the emission or generation of any*
8 *odor from any source which unreasonably interferes with another*
9 *person's use and enjoyment of his property.*

10 This Regulation implements RCW 70.94, the Washington Clean Air Act, and U.S.
11 Public Law 95-95, Clean Air Act Amendments of 1977.

12 IV

13 The penalty of \$1,000 levied by OAPCA was reasonable in light of the continuing
14 pattern of violations.

15 The Board therefore issues the following

16 ORDER

17 The penalty of \$1,000 issued to Bliemeisters' Woodworks on January 20, 1993, based
18 on a violation cited on November 12, 1992, is affirmed.

19 DONE this 30th day of September, 1993.

20 POLLUTION CONTROL HEARINGS BOARD

21 
22 RICHARD C. KELLEY, Presiding

23 
24 ROBERT V. JENSEN, Chairman

25 P93-32F

26 FINAL FINDINGS OF FACT
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